REMARKS

This amendment is responsive to the Office Action[1] mailed October 5, 2005.

Claims 1-11 and 16-37 were presented for examination and were rejected. No claims

are added. Thus claims 1-11 and 16-37 would be pending upon entry of this

amendment. No new matter has been added.

In the Office Action the Examiner rejected the following claims under 35 U.S.C.

§ 103(a): claims 1-3, 5, 22-26, and 35-37 as unpatentable over U.S. Patent No.

6,034,621 to Kaufman ("*Kaufman*"), in view of U.S. Publication No. US 2003/0023759 to

Littleton et al. ("*Littleton*"), U.S. Patent No. 6,820,204 to Desai et al. ("*Desai*"), U.S.

Publication No. US 2004/0082320 to Cox et al. ("*Cox*"), and further in view of U.S.

Patent No. 6,810,405 to LaRue et al. ("*LaRue*"); claim 4 as unpatentable over *Kaufman*

in view of *Littleton, Desai, Cox, LaRue*, and further in view of *Novak*, and further in view

of U.S. Patent No. 6,643,669 to Novak et al. ("*Novak*"); claims 6, 7, 9, 10, 16, 17, 19, 20,

and 27-34 as unpatentable over *Littleton* in view of U.S. Publication No. US

2001/0044321 to Ausems et al. ("*Ausems*"), *Cox*, and further in view of *LaRue*; claims 8,

11, 18, and 21 as unpatentable over *Littleton* in view of *Ausems, Cox, LaRue*, and

further in view of *Kaufman*. Applicant respectfully traverses the Examiner's rejections of

the claims under 35 U.S.C. § 103(a), based on the following.

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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action. As Applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicant's silence as to certain requirements applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by Applicant that such requirements have been met, and Applicant reserves the right to analyze and dispute such in the future.

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To establish a prima facie case of obviousness under §103(a), three basic criteria must be met. First, the prior art reference as modified must teach or suggest all the claim elements. (See M.P.E.P. § 2143.03 (8th ed. 2001)). Second, there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the reference teachings. (See M.P.E.P. § 2143 (8th ed. 2001)). Third a reasonable expectation of success must exist. Moreover, each of these requirements must "be found in the prior art, and not be based on applicant's disclosure." (M.P.E.P. § 2143.03 (8th ed. 2001)).

Section 103(a) Rejection of Claims 1-5, 22-26, and 35-37

The Examiner rejected claims 1-3, 5, 22-26, and 35-37 as unpatentable over *Kaufman* in view of *Littleton, Desai, Cox*, and further in view of *LaRue*. The Examiner also rejected claim 4 as unpatentable over *Kaufman* in view of *Littleton, Desai, Cox, LaRue*, and further in view of *Novak*. Applicant begins with a discussion of claim 1.

Claim 1 recites a combination including:

a voice communication module for establishing a voice communication link between the wireless telephone and a second telephone; and

a memory, comprising:

> a synchronization routine, wherein the synchronization routine is downloaded from a remote server if the synchronization routine is not present in the wireless telephone; and

> a database;

> said synchronization routine being adapted to automatically transmit information reflecting a database change to a

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computer over a wireless network while the voice
communication link is established.

None of the cited references teach or suggest the combination recited in claim 1.

For example, none of the cited references disclose a "synchronization routine being

adapted to automatically transmit information reflecting a database change to a

computer over a wireless network while the voice communication link is established," as

recited by claim 1. Although *Kaufman* describes a "wireless remote synchronization of

data between PC and PDA" that provides for "simplified, discrete and automated

synchronization of calendar and contact-related data between a personal computer and

a remote personal digital assistant" (*Kaufman* col. 1, lines 1-12), this does not constitute

a teaching of "said synchronization routine being adapted to automatically transmit

information reflecting a database change to a computer over a wireless network while

the voice communication link is established," as admitted by the Examiner. (Office

Action, p. 3.)

Likewise, although *Littleton* describes a "system and method for provisioning

telephony services via a personal digital assistant" that provides for "synchronization of

information between a wireless portable device and a server" (Littleton, title, ¶ 0002),

Littleton fails to teach or suggest a "synchronization routine being adapted to

automatically transmit information reflecting a database change to a computer over a

wireless network while the voice communication link is established," as recited in claim

1.

Regarding *Desai*, although *Desai* describes a "system and method for selective

information exchange" that provides "control over the content of stored information, as

well as control over the access to the stored information" (*Desai*, col. 3, lines 35-38),

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Desai also fails to teach or suggest "said synchronization routine being adapted to automatically transmit information reflecting a database change to a computer over a wireless network while the voice communication link is established," as recited in claim 1. Next, although *Cox* describes a "directory assistance method and apparatus" that includes a voice response unit that "plays a greeting message" and is disconnected "when the automated greeting is complete" (*Cox*, p. 3, ¶¶ 27-28), this also does not constitute a teaching of "said synchronization routine being adapted to automatically transmit information reflecting a database change to a computer over a wireless network while the voice communication link is established," as recited in claim 1.

LaRue describes a "system and methods for synchronizing data between multiple datasets" (*LaRue*, title) that provides for a "telephone [that] initiates the synchronization by placing a data call to the server and logging on to the server." (*LaRue*, abstract.) In *LaRue*, a wireless telephone sends a synchronizing command upon user activation of the synchronization key of the keypad on the wireless telephone (*LaRue*, col. 15, lines 36-39). The synchronization function may be initiated by the user in other manners, such as by interpreting a spoken command from the user (*LaRue*, col. 15, lines 41-45). A sync client may pick up a call from a sync engine, and upon the user's permission to proceed, turns the call into a data call (*LaRue*, col. 33, line 66-col. 34, line 18). However, *LaRue*'s description of <u>initiating</u> a synchronization function upon user command fails to teach or suggest a "synchronization routine being adapted to automatically transmit information reflecting a database change to a computer over a wireless network while the voice communication link is established," as recited in claim 1.

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Therefore, *Kaufman*, *Littleton*, *Desai*, *Cox*, or *LaRue*, taken either alone or in any legally permitted combination, fail to teach a wireless telephone having "said synchronization routine being adapted to automatically transmit information reflecting a database change to a computer over a wireless network while the voice communication link is established," as recited in claim 1.

Since the cited references fail to teach all of the elements of claim 1, no prima facie case of obviousness has been made out. For at least the foregoing reasons, Applicant submits that claim 1 is allowable over *Kaufman*, *Littleton*, *Desai*, *Cox*, and/or *LaRue*, and therefore respectfully requests withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a). Because claims 22 and 35 are independent claims which include limitations similar to those discussed above with respect to claim 1, Applicant further submits that claims 22 and 35 are also allowable over *Kaufman*, *Littleton*, *Desai*, *Cox*, and/or *LaRue* for at least the reasons given with respect to claim 1, and respectfully requests that the Examiner withdraw the rejections of claims 22 and 35 as well.

Moreover, Applicant submits that dependent claims 2-5, 23-26, and 36-37 are allowable, not only for the reasons stated above with regard to their respective allowable base claims, but also for their own additional features that distinguish them from the cited references.[2] Accordingly, Applicant requests withdrawal of the rejection of claims 2-5, 23-26, and 36-37 under 35 U.S.C. § 103(a) and the timely allowance of these pending claims.

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[2] As Applicant's remarks with respect to the base independent claims are sufficient to overcome the Examiner's rejections of all claims dependent therefrom, Applicant's silence as to the Examiner's assertions with respect to dependent claims is not a concession by Applicant to the Examiner's assertions as to these claims, and Applicant reserves the right to analyze and dispute such assertions in the future.

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Section 103(a) Rejection of Claims 6-11, 16-21, and 27-34

The Examiner rejected claims 6, 7, 9, 10, 16, 17, 19, 20, and 27-34 as

unpatentable over *Littleton* in view of *Ausems*, *Cox*, and further in view of *LaRue*.

Applicant begins with a discussion of claim 27.

Claim 27 recites a computer-implemented method that includes:

establishing a voice communication link between the wireless telephone
and a second telephone;

initiating a synchronization routine to transmit the data file from the
wireless telephone to the computer over the wireless network; and

receiving the data file by the computer,

wherein the voice communication link remains established during the
initiating and the receiving.

None of the cited references teach or suggest the method recited by claim 27. For

example, none of the cited references teach or suggest "establishing a voice

communication link between the wireless telephone and a second telephone . . .

wherein the voice communication link remains established during the initiating and the

receiving," as recited in claim 27.

In the Office Action, the Examiner admitted that *Littleton* does not provide a

teaching of "establishing a voice communication link between the wireless telephone

and a second telephone." (Office Action, p. 6-7.) *Littleton* likewise does not describe

"establishing a voice communication link between the wireless telephone and a second

telephone . . . wherein the voice communication link remains established during the

initiating and the receiving," as recited in claim 27.

The Examiner further relied on the description in *Ausems*, asserting that *Ausems*

describes a "personal digital assistant this is [a] wireless telephone." (Office Action,

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p. 7.) However, *Ausems* does not teach or suggest "establishing a voice

communication link between the wireless telephone and a second telephone . . .

wherein the voice communication link remains established during the initiating and the

receiving," as recited in claim 27. Next, although *Cox* describes a "directory assistance

method and apparatus" that includes a voice response unit that "plays a greeting

message" and is disconnected "when the automated greeting is complete" (*Cox*, p. 3, ¶¶

27-28), this also does not constitute a teaching of "establishing a voice communication

link between the wireless telephone and a second telephone . . . wherein the voice

communication link remains established during the initiating and the receiving," as

recited in claim 27.

As discussed above, *LaRue* describes a "system and methods for synchronizing

data between multiple datasets" (*LaRue*, title) that provides for a "telephone [that]

initiates the synchronization by placing a data call to the server and logging on to the

server." (*LaRue*, abstract.) In *LaRue*, a wireless telephone sends a synchronizing

command upon user activation of the synchronization key of the keypad on the wireless

telephone (*LaRue*, col. 15, lines 36-39). The synchronization function may be initiated

by the user in other manners, such as by interpreting a spoken command from the user

(*LaRue*, col. 15, lines 41-45). A sync client may pick up a call from a sync engine, and

upon the user's permission to proceed, turns the call into a data call (*LaRue*, col. 33,

line 66-col. 34, line 18). However, *LaRue*'s disclosure of <u>initiating</u> a synchronization

function upon user command fails to teach or suggest "establishing a voice

communication link between the wireless telephone and a second telephone . . .

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wherein the voice communication link remains established during the initiating and the receiving," as recited in claim 27.

Since the cited references fail to teach all of the elements of claim 27, no prima facie case of obviousness has been made out. For at least the foregoing reasons, Applicant submits that claim 27 is allowable over *Littleton* in view of *Ausems*, *Cox*, and further in view of *LaRue*, and requests withdrawal of the rejection of claim 27 under 35 U.S.C. § 103(a). Because claims 6, 9, 16, 19, and 31 are independent claims which include limitations similar to those discussed above with respect to claim 27, Applicant further submits that claims 6, 9, 16, 19, and 31 are also allowable over *Littleton* in view of *Ausems*, *Cox*, and further in view of *LaRue*, for at least the reasons given with respect to claim 27, and respectfully requests that the Examiner withdraw the rejections of claims 6, 9, 16, 19 and 31 as well.

Moreover, Applicant submits that dependent claims 7, 8, 10, 11, 17, 18, 20, 21, 28-30, and 32-34 are allowable not only for the reasons stated above with regard to their respective allowable base claims, but also for their own additional features that distinguish them from the cited references. Accordingly, Applicant requests withdrawal of the rejection of claims 7, 8, 10, 11, 17, 18, 20, 21, 28-30, and 32-34 under 35 U.S.C. § 103(a) and the timely allowance of these pending claims.

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Conclusion

In view of the foregoing remarks, Applicant submits that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to deposit account 07-2339.

Respectfully submitted,

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